

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2001-287

May 14, 2001

BANGOR GAS COMPANY LLC,  
Request for Waiver of the  
Requirements of Chapter 830

ORDER

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**I. SUMMARY**

We clarify that Bangor Gas Company LLC (Bangor Gas or BGC) does not need written approval of any proposed promotional allowance programs under Chapter 830(4), but is required to file rate schedules with the Commission describing the programs and to comply with other requirements of Chapter 830. Finally, we make no assurances to BGC that the costs of these programs will be recoverable in future rates.

**II. BACKGROUND AND DISCUSSION**

On April 11, 2001, Bangor Gas met with the Staff to inform them of its current promotional programs. Staff noted that Chapter 830(4) of the Commission's Rules requires that gas or electric utilities receive explicit written approval for any promotional programs it seeks to implement.

On April 25, 2001, Bangor Gas Company LLC filed descriptions of its current promotional allowance programs, recently implemented in order to improve its customer base and assist customers in facilitating conversion to natural gas service. BGC states that these programs are being provided pursuant to its currently effective terms and conditions, which provide:

The Company may from time to time offer promotional allowances for the purpose of encouraging the selection, use or increased usage of the Company's service.

Original Sheet No. 4 (effective Oct. 1, 1999).

Bangor Gas further states that, during certification proceedings for both it and Maine Natural Gas Company (MNG) (formerly CMP Natural Gas Company), witnesses discussed promotional programs that they intended to implement as part of the development of gas service in their respective service areas. Bangor Gas argues that the Commission recognized the necessity of such programs and affirmed its support for an "aggressive growth strategy" in its approval of alternative rate plans designed to enable the companies to compete for customers. See *Bangor Gas Company*, Docket No. 97-795, Order (June 26, 1997) at 13, 14, and 17.

Bangor Gas also notes that the Commission explicitly permitted MNG to implement promotional allowance programs pursuant to Chapter 830(4) in its Order Approving Rate Plan in Docket No. 96-786 (Dec. 17, 1998) at 10, fn. 9. While no similarly explicit statement exists in BGC's order, BGC notes that the Commission did endorse the Company's proposal to offer no interest loans to facilitate customer reconversions in the event they are dissatisfied with conversion to natural gas. Both Bangor Gas and MNG are required to fulfill annual reporting requirements regarding their promotional and marketing activities.

Accordingly, Bangor Gas argues that further Commission review and approval of its specific promotional programs should not be required because as a start up utility in a competitive environment, it needs to be able to act flexibly to promote its product and encourage and assist customers to convert, as its competitors are able to do. Therefore, it asks that the Commission clarify the regulatory treatment of these programs and to do so in a manner that does not require oversight of each program as it is introduced.

Finally, Bangor Gas argues that the only program that might fall under Chapter 830 is its "Neighbor-To-Neighbor Program," which gives a \$25 credit to an existing customer who refers a new customer to the Company. Other programs offered by Bangor Gas include: a Conversion Burner Program under which it provides customers with conversion burners at cost; a Contractor Management Program under which the BGC assigns the work to a pre-approved sub-contractor who bills BGC for the work when completed to the Company's satisfaction; a Service Extension Allowance Program under which BGC provides free footage for a service extension up to a maximum allowance; and a Finance Program offering interest free conversion loans.

Chapter 830 defines a promotional allowance as "any reduction in rates or charges or any rebate or credit granted by a public utility to a customer for the purpose of encouraging any person to select or use the service or increase usage of the service of a utility, to select, purchase, install, or use any appliance or equipment designed to use such utility's service, or to use any other particular service of such utility." It is arguable that all of these programs may fall within the definition of a promotional allowance since the costs of the conversion facilitation services or the interest free loans could essentially constitute credits or reductions in charges granted by a public utility to a customer. Moreover, since they are clearly conceived and presented by the Company as promotional programs, it would be consistent to view them as such for regulatory purposes.

Bangor Gas also states that it is generating no profit from these services, any cost or investment associated with these programs is de minimis under Chapter 820,

and, to the extent these promotions help BGC increase total load, they will benefit all customers through decreased unit costs of service.<sup>1</sup>

#### IV. CONCLUSION

While not explicitly stated in our Order in Docket No. 97-795, given its status as a start up utility in a competitive environment to which we have accorded a great deal of management discretion, we see no reason to require BGC to seek our approval for each of its promotional programs.<sup>2</sup> Although BGC indicates that the costs of these programs inure to shareholders, it is only fair to emphasize that we are in no way assuring rate recovery of the program costs at this time and that we would review any costs that may be submitted for rate recovery to determine whether they were incurred to the detriment of ratepayers. As with MNG, Bangor Gas must file a rate schedule describing each program it offers for inclusion with its terms and conditions of service and comply with the reporting requirements of Chapter 830 of our Rules.<sup>3</sup>

Accordingly, we

#### ORDER

1. That this Order constitutes explicit written approval, pursuant to Chapter 830(4) of our Rules, for Bangor Gas Company to implement promotional allowance programs without further direct oversight;

2. That Bangor Gas shall file rate schedules describing the Promotional Programs it plans to offer for inclusion with its Terms and Conditions of Service; and

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<sup>1</sup> Bangor Gas asserts that even if the cost of these programs was not de minimis, there would be good cause for a waiver of the Chapter 820 requirement that non-core services be conducted through an unregulated subsidiary. Given that BGC contends that the costs of these programs fall within the Chapter 820 de minimis exemption, we do not need to decide that question here.

<sup>2</sup> However, we do not insulate BGC from the possibility of an investigation into its rates or practices under 35-A M.R.S.A. §1302 or §1303, if warranted.

<sup>3</sup> Bangor Gas is not required to suspend current promotional programs pending this filing requirement.

3. That Bangor Gas shall otherwise comply with the provisions of Chapters 820 and 830 and all other provisions of law when undertaking promotional programs.

Dated at Augusta, Maine, this 14<sup>th</sup> day of May, 2001.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:     Nugent  
   Diamond  
COMMISSIONER ABSENT:         Welch

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.